

Message Text

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E.O. 11652: N/A

TAGS: PLOS

SUBJECT: LAW OF THE SEA - LETTER FROM/FOREIGN MINISTER
GARCIA ROBLES

1. FOLLOWING IS LETTER FROM FORMER SECRETARY OF FOREIGN
RELATIONS OF MEXICO TO FORMER SECRETARY OF STATE.
TRANSLATION AS PROVIDED BY LANGUAGE SERVICES OF
DEPARTMENT.

QUOTE TLATELOLCO, OCTOBER 22, 1976

DEAR MR. SECRETARY:

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I SHOULD LIKE TO REFER TO OUR CONVERSATION IN NEW
YORK ON OCTOBER 9 DURING WHICH WE EXAMINED, AMONG OTHER
QUESTIONS, THE PROSPECTS OF THE CONFERENCE ON THE LAW
OF THE SEA AND THE URGENT NEED FOR SERIOUS NEGOTIATIONS
ON THE SEABED REGIME SO AS TO REACH A GENERAL AGREEMENT
ON THIS SUBJECT.

AFTER CAREFULLY STUDYING THE REPORTS OF THE CONFERENCE, I AM CONVINCED THAT THE COUNTRIES THAT ARE PRINCIPALLY CONCERNED AND THAT HAVE AUTHORITY WITHIN THE CONFERENCE MUST MAKE A SUPREME EFFORT TO SOLVE THE

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PROBLEMS ADDRESSED BY THE FIRST COMMITTEE. THE LAST MEETING WAS PERHAPS THE MOST NEGATIVE AND FRUSTRATING ONE WITH REGARD TO SEABEDS. THE EFFORTS MADE TO OBTAIN GENERAL APPROVAL OF CHAIRMAN ENGO'S REVISED SINGLE TEXT DID NOT SUCCEED. NUMEROUS STATES--INCLUDING MEXICO--WERE ABLE TO EXPRESS THEIR OBJECTIONS OFFICIALLY, IN SPITE OF PROCEDURAL OBSTACLES, AND THESE OBJECTIONS WERE RECORDED IN THE MINUTES OF THE FIRST COMMITTEE. THUS THE ATTEMPT TO GIVE GREATER AUTHORITY TO CHAIRMAN ENGO'S TEXT AT THE END OF THE CONFERENCE'S LAST MEETING FAILED. UNFORTUNATELY, MANEUVERS AND DEBATES ON PROCEDURAL POINTS TOOK UP ALL OF THE CONFERENCE'S TIME, AND SERIOUS NEGOTIATIONS ON THE SUBSTANCE OF FUNDAMENTAL ISSUES RELATED TO THE SEABED REGIME WHICH DIVIDE THE STATES DID NOT TAKE PLACE.

AS YOU WILL CERTAINLY RECALL, DEPUTY SECRETARY CASTANEDA, MEXICO'S REPRESENTATIVE TO THE CONFERENCE, SPOKE TO YOU ABOUT THE URGENT NEED, DURING THE LAST TWO WEEKS OF THE MEETING, FOR A GROUP OF SOME TWELVE COUNTRIES REPRESENTING THE MAIN INTERESTS AND POINTS OF VIEW TO UNDERTAKE IN-DEPTH NEGOTIATION, APART FROM ALL PROCEDURAL CONSIDERATIONS, ON THE MAIN PROBLEMS LIMITED OFFICIAL USE

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THAT STILL REMAIN TO BE SOLVED IN THE OPINION OF MANY STATES. UNFORTUNATELY, IN SPITE OF YOUR SUPPORT, IT WAS IMPOSSIBLE TO CARRY OUT THIS INITIATIVE.

THE VIRTUAL STAGNATION OF WORK NOTWITHSTANDING, I HAVE THE IMPRESSION, IN THE LIGHT OF OUR CONVERSATIONS, CONTACTS BETWEEN OUR TWO DELEGATIONS, AND CONSULTATIONS WITH OTHER STATES, THAT THERE ARE OBJECTIVE AND REASONABLE BASES FOR AN AGREEMENT. THE MAIN OBSTACLE TO THE INTEGRATION OF POTENTIALLY COMMON ELEMENTS INTO A GENERAL AGREEMENT IS THAT THE TWO MAIN TRENDS HAVE TENDED TO CRYSTALLIZE INTO SEEMINGLY IRRECONCILABLE POSITIONS OF PRINCIPLE BECAUSE OF THE VERY DYNAMISM OF THE DEBATES.

THE REQUIREMENT THAT ALL PARTIES ACCEPT IN ADVANCE FREE ACCESS OF ALL STATES AND INDIVIDUALS TO SEABEDS AS A POSITION OF PRINCIPLE, BEFORE DISCUSSING AND AGREEING

ON CURRENT AND FUTURE CONDITIONS AND REPERCUSSIONS OF THIS FREE ACCESS, SEEMS EXAGGERATED AND INFEASIBLE. NUMEROUS DEVELOPING STATES, INCLUDING MEXICO, WOULD AGREE TO SEABED ACCESS FOR EXPLOITATION PURPOSES UNDER CERTAIN

CONDITIONS BUT NOT UNDER OTHERS. THUS I BELIEVE THAT THE ALTERNATIVE, I.E. AN OPEN ZONE AND FREE ACCESS OR A CLOSED ZONE AND ACCESS AUTHORIZED BY THE AUTHORITY AT ITS DISCRETION, MAY BE AN ARTIFICIAL DILEMMA. AS LONG AS THE CONFERENCE DOES NOT OVERCOME THIS POSITION OF PRINCIPLE, WHICH DOES NOT TRULY REFLECT THE REAL POSITION OF MOST STATES, IT WILL BE VERY DIFFICULT TO REACH A GENERAL AGREEMENT.

I AM CONVINCED THAT THE ONLY WAY TO OVERCOME THIS DEADLOCK WOULD BE TO IDENTIFY CLEARLY THE ACCEPTABLE CONDITIONS FOR THE BEGINNING OF SEABED EXPLOITATION UNDER A DUAL SYSTEM, I.E., ALLOW EXPLOITATION BY STATES AND INDIVIDUALS UNDER CONDITIONS THAT WOULD BENEFIT ALL MANKIND

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AND, AT THE SAME TIME, PLAN EFFECTIVE AND SUBSTANTIAL MEASURES SO THAT THE INTERNATIONAL AUTHORITY MAY REALISTICALLY INITIATE THE EXPLOITATION OF THESE RESOURCES WITHIN A REASONABLE TIME LIMIT. IF AN AGREEMENT ON THESE CONDITIONS WERE REACHED THE AFORESAID DILEMMA WOULD DISAPPEAR AUTOMATICALLY.

AS YOU KNOW THERE ARE THREE OF THESE ESSENTIAL CONDITIONS IN OUR OPINION: (1) THAT THE ENTERPRISE HAVE ITS OWN FINANCIAL AND TECHNOLOGICAL MEANS, THAT DO NOT DEPEND ON THE GOODWILL OR JOINT CAPACITY OF ONE OR SEVERAL STATES, IN ORDER TO BEGIN SEABED PROSPECTING AND EXPLOITATION; (2) THAT WITHIN A REASONABLE AMOUNT OF TIME AND WITHOUT EXCESSIVE OBSTACLES THE INTERNATIONAL COMMUNITY MAY REVIEW AND MODIFY THE SYSTEM, ABOUT WHICH WE TOTALLY LACK EXPERIENCE, SO AS TO DETERMINE WHETHER IT HAS CONTRIBUTED TO THE EQUITABLE DISTRIBUTION OF RESOURCES THAT BELONG TO "THE COMMON HERITAGE OF MANKIND"; (3) THAT A TRIBUNAL WITH LIMITED MEMBERSHIP MAY NOT INVALIDATE OR MODIFY THE BASIC GUIDELINES OF THE AUTHORITY'S ORGANS. I SINCERELY BELIEVE THAT THESE CONDITIONS WILL BE ACCEPTABLE TO ALL GROUPS OF STATES.

IN THE LIGHT OF OUR RECENT TALKS AT NEW YORK, I WONDER WHETHER IT WOULD NOT BE DESIRABLE TO REVIVE THE IDEA OF CONVENING, BEFORE THE CONFERENCE MEETS AGAIN, A SMALL NEGOTIATING GROUP COMPRISED OF THE HEADS OF THE DELEGATIONS OF SOME 12 OR 15 STATES REPRESENTING THE MAIN INTERESTS AND POINTS OF VIEW. IN ACCORDANCE WITH THE

PROPOSAL PRESENTED TO THE STATES DURING THE LAST SESSION OF THE CONFERENCE, THIS GROUP COULD MEET FOR THE PURPOSES OF DISCUSSING AND NEGOTIATING PENDING PROBLEMS. BECAUSE

OF THE PROPOSAL'S BROAD TERMS, THE NEGOTIATING GROUP AND ITS MEETINGS COULD BE GRANTED THE MANDATE DEEMED MOST LIMITED OFFICIAL USE

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APPROPRIATE WITHOUT GIVING THE GROUP A PRECISE STATUS OR REQUIRING THAT IT OFFICIALLY REPORT TO THE CONFERENCE OR ONE OF ITS ORGANS. I BELIEVE THAT IF THIS GROUP WERE REPRESENTATIVE AND ITS MEMBERS REACHED A BASIC UNDERSTANDING, THE RESULT OF ITS WORK COULD SERVE AS THE NUCLEUS FOR A GENERAL AGREEMENT DURING THE CONFERENCE'S NEXT MEETING.

ALTHOUGH WE SUGGESTED THE POSSIBLE MEMBERSHIP OF THE GROUP (UNITED STATES, SOVIET UNION, NETHERLANDS, AUSTRALIA, CANADA, TUNISIA, TANZANIA, SENEGAL, INDIA, SRI LANKA, BRAZIL AND MEXICO) TO AMBASSADOR LEARSON, WE HAVE NO SET IDEAS ON THIS MEMBERSHIP, NOR ON THE MANNER OF CONVENING THE GROUP OR ON THE DATES AND PLACES OF THE MEETINGS AND, OF COURSE, WE HAVE NO INTEREST WHATSOEVER IN CHAIRING IT. I THINK THAT MINISTER EVENSEN OF NORWAY, BECAUSE OF HIS AUTHORITY AND EXPERIENCE, WOULD BE THE IDEAL CHAIRMAN. I BELIEVE, HOWEVER, THAT THE "EVENSEN GROUP" WOULD NOT BE AN APPROPRIATE FORUM SINCE AT LEAST 40 TO 50 REPRESENTATIVES GENERALLY ATTEND ITS MEETINGS AND THIS BUT ENCOURAGES THE REAFFIRMATION OF OLD POSITIONS. AND, AS PAST EXPERIENCE HAS SHOWN, IT COULD IMPEDE PARTICIPATION BY AFRICAN STATES.

WITH REGARD TO MEXICO, MY GOVERNMENT WOULD BE PREPARED TO CONTRIBUTE UNSELFISHLY TO THIS EFFORT IN WHATEVER WAY WOULD BE MOST CONSTRUCTIVE.

IN THE HOPE THAT THE AFORESAID IDEAS AND SUGGESTIONS MAY CONTRIBUTE TO OUR TWO COUNTRIES' COMMON OBJECTIVES, I AVAIL MYSELF OF THIS OPPORTUNITY TO RENEW TO YOU THE ASSURANCES OF MY HIGHEST CONSIDERATION AND PERSONAL ESTEEM.

(SIGNATURE)

ALFONSO GARCIA ROBLES UNQUOTE
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